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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,722	10/30/2003	Patrick R. Lancaster III	02906.0346	6330

22852 7590 06/02/2005

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,722

Applicant(s)

LANCASTER ET AL.

Examiner

John R Paradiso

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-136 is/are pending in the application.
- 4a) Of the above claim(s) 59-75 and 90-132 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-38, 53, 76-82, 86-89 and 133-136 is/are allowed.
- 6) ☒ Claim(s) 39-52, 54-58 and 83-85 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/8/04, 11/4/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Invention I in the reply filed on 2/28/2005 is acknowledged.

2. On page 3 of his Response, Applicant points out that "The subject matter of the claims of Groups I and II is not independent as would be a necktie and a locomotive bearing. Therefore, the claims are not independent as suggested in the Office Action."

However, while the Inventions are not in different fields, they are unrelated in that Group II performs pallet dispensing without a cantilevered pusher arm while Group I performs the same task with a cantilevered pusher arm, two different approaches to the method.

3. On page 4 of his Response, Applicant states that "Examiner has not established that the claims of Groups I and II have a separate classification."

However, the paragraph 1 in the Restriction in the previous Office Action contained a typographical error regarding the subclasses – it should have indicated that Invention I is classified in class 414 subclass 797.9 and Invention II is classified in class 414 subclass 797.4. The argument is therefore rendered moot.

Art Unit: 3721

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 39-52, 54-58, and 83-85 are rejected under 35 U.S.C. 102(b) as being anticipated by JAMES ET AL (US 4743154).

JAMES ET AL discloses a method and apparatus for dispensing pallets in which pallets are stored in a magazine (P) and lifted up from a bottommost pallet, the bottommost pallet being supported by a plate. The bottommost pallet is moved from under the magazine by a pusher bar and conveyed on rollers (19). (See JAMES ET AL column 3:62-4:38 and Fig. 1)

***Allowable Subject Matter***

6. Claims 1-38, 53, 76-82, 86-89, and 133-136 are allowed.

Art Unit: 3721

7. The following is an examiner's statement of reasons for allowance: the prior art could not alone or in combination anticipate or make obvious a method and apparatus for dispensing pallets in which a stack of pallets is moved away from the bottommost pallet and the bottommost pallet is pushed by a cantilevered pusher bar out from under the stack.

The most pertinent prior art, JAMES ET AL, discloses a method and apparatus for dispensing pallets but does not disclose the bottommost pallet being pushed by a cantilevered pusher bar out from under the stack.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### *Reference Citations*

8. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- OUELLETTE discloses a method and apparatus for dispensing a pallet.
- DECRANE discloses a method and apparatus for dispensing a pallet.

Art Unit: 3721

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

May 16, 2005

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 308-7135

Fax (Official): (703) 872-9306

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)